

**AN ORDINANCE
BY COUNCIL MEMBER C.T. MARTIN**

13-O-0165

AS SUBSTITUTED BY FINANCE/EXECUTIVE COMMITTEE

A SUBSTITUTE ORDINANCE AUTHORIZING THE CHIEF FINANCIAL TO EXECUTE A CLOSING AGREEMENT WITH THE INTERNAL REVENUE SERVICE REGARDING THE ISSUANCE OF THE CITY OF ATLANTA'S \$80,000,000 GENERAL FUND TAX ANTICIPATION NOTE, SERIES 2010; AND AUTHORIZING PAYMENT OF PENALTIES IN THE AMOUNT OF ONE HUNDRED EIGHTY TWO THOUSAND SIX HUNDRED SIXTY ONE DOLLARS AND NO CENTS (\$182,661.00); TO BE CHARGED TO AND PAID FROM FUND (1001- GENERAL FUND) DEPARTMENT (200301-NON-DEPARTMENTAL) ORGANIZATION (5730009- UNALLOCATED CITYWIDE) FUNCTION/ACTIVITY (1540000-PENALTIES); AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Ordinance 09-O-2030, adopted by the City Council of the City of Atlanta on December 7, 2009 and approved by the Mayor on December 15, 2009, the City of Atlanta ("City") issued its "\$80,000,000 General Fund Tax Anticipation Note, Series 2010" (the "Note") on January 5, 2010; and

WHEREAS, the Note was fully redeemed on December 31, 2010; and

WHEREAS, the Internal Revenue Service (the "IRS") has conducted an examination of the Note and a determination has been made by the IRS that, based on a lack of records, the Note failed to meet the requirements of Section 103 of the Internal Revenue Code; and

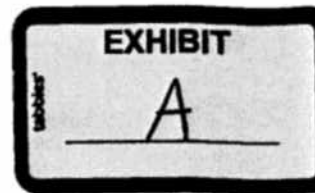
WHEREAS, it has been determined that it is in the best interest of the City to enter into a "Closing Agreement on Final Determination Covering Specific Matters," in substantially the form attached hereto as Exhibit A (the "Agreement").

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

Section 1: The Chief Financial Officer of the City is authorized to execute the Agreement, attached hereto in substantially final form as Exhibit A.

Section 2: The Chief Financial Officer is hereby authorized to pay the required penalties assessed by the IRS in the amount of One Hundred Eighty Two Thousand Six Hundred Sixty One Dollars And No Cents (\$182,661.00), to be charged to and paid from Fund (1001- General Fund) Department (200301-Non-Departmental) Organization (5730009- Unallocated Citywide) Function/Activity (1540000-Penalties).

Section 3: The Agreement will not become binding upon the City and the City will incur no obligation or liability under it until it has been executed by the Chief Financial Officer, approved by the City Attorney as to form and delivered to the IRS.



**CLOSING AGREEMENT ON FINAL DETERMINATION
COVERING SPECIFIC MATTERS**

Under section 7121 of the Internal Revenue Code of 1986, as amended (the "Code"), the City of Atlanta, Georgia, EIN 58-6000511, (the "Issuer") and the Commissioner of Internal Revenue (the "Service"), make this closing agreement (the "Agreement").

WHEREAS, the parties have determined the following facts and made the following legal conclusions and representations:

- A. This Agreement is in settlement of issues raised in an examination of the \$80,000,000 General Fund Tax Anticipation Note, Series 2010 (the "Note"), dated and issued on January 5, 2010.
- B. The Service has conducted an examination of the Note and concluded based on a lack of records that the Note failed to meet the requirements of section 103 of the Code because the Note was a hedge bond within the meaning of section 149(g) of the Code.
- C. The Note was fully redeemed on December 31, 2010.
- D. The Service has not formally asserted any claims against the Issuer, or sought to tax any holders of the Note on interest income on the Note.
- E. The Issuer and the Service desire to settle the issue(s) raised during the examination of the Note.
- F. The terms of this Agreement were arrived at by negotiation between the Issuer and the Service, and may differ from the terms of settlement of other bond issues examined or to be examined by the Service.
- G. This Agreement is for the benefit of the past registered and beneficial owners of the Note (collectively, "the Note holders").

NOW, IT IS HEREBY DETERMINED AND AGREED PURSUANT TO THIS CLOSING AGREEMENT EXECUTED BY THE PARTIES HERETO UNDER CODE SECTION 7121, THAT FOR FEDERAL INCOME TAX PURPOSES:

- 1. Prior to the execution and delivery of this Agreement, the Issuer shall cause to be electronically paid the sum of \$182,421 (One Hundred Eighty-Two Thousand, Four Hundred Twenty-One Dollars) (the "Settlement Amount") to the Service via the Electronic Federal Tax Payment System and in accordance with the directions contained in Exhibit A of this Agreement. Payment of the Settlement Amount

shall not be made from proceeds of an obligation described in section 103(a) of the Code.

2. The Settlement Amount described in Paragraph 1 of this Agreement is not refundable, or subject to credit or offset under any circumstances.
3. This Agreement is executed with respect to the taxability of interest paid on the Note.
4. No income shall be recognized by any Note holder with respect to interest on the Note or any payments made pursuant to this Agreement.
5. No party to this Agreement shall endeavor by litigation or other means to attack the validity of this Agreement.
6. This Agreement may not be cited or relied upon by any person or entity whatsoever as precedent in the disposition of any other case.
7. Notwithstanding anything to the contrary contained herein, the Service may take any appropriate action with respect to the Note, including taxing the Note holders on interest earned on the Note, for violations other than those set forth herein or for violations arising after the effective date of this Agreement.
8. This Agreement is final and conclusive, except that:
 - a) The matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of a material fact;
 - b) It is subject to sections of the Code that expressly provide that effect be given to their provisions (including any stated exceptions for section 7122) notwithstanding any other law or rule of law; and
 - c) If it relates to a tax period ending after the effective date of this agreement, it is subject to any law enacted after the Agreement date that applies to that tax period.

CLOSING AGREEMENT between the City of Atlanta, Georgia (EIN 58-6000511), the Issuer, and the Commissioner of Internal Revenue.

By signing, the above parties certify that they have read and agreed to the terms of this Agreement.

ISSUER: CITY OF ATLANTA, GEORGIA

EIN: 58-6000511

BY:

SIGNATURE

NAME (PLEASE PRINT)

TITLE

DATE

COMMISSIONER OF INTERNAL REVENUE:

BY:

SIGNATURE

ROBERT E. HENN
ACTING DIRECTOR, TAX EXEMPT BONDS

NAME AND TITLE

DATE

Exhibit A

Taxpayer Information Worksheet for
Electronic Federal Tax Payment System Deposit

This Agreement requires the electronic deposit of an amount to the U.S. Treasury through the Electronic Federal Tax Payment System (EFTPS) as a term for resolution of certain identified matters related to the tax-exempt treatment of interest income paid on a municipal obligation. This payment must be deposited in accordance with the directions contained in this Exhibit.

Please carefully review the taxpayer information listed below and immediately report any errors to the IRS Tax Exempt Bonds employee assigned to your case. If, to the best of your knowledge, the information is correct, then please deposit all required payments through the EFTPS (either *EFTPS – Direct* or *EFTPS – Through a Financial Institution*) accurately and in accordance with this information and the terms of this Agreement.

1. Total Amount of Tax Deposit: **\$182,421.00**
2. Taxpayer's Employee Identification Number (EIN): **58-6000511**
3. Taxpayer Name Control (4 characters): **CITY**
4. Taxpayer Name (up to 35 characters): **CITY OF ATLANTA GEORGIA**
5. Tax Type (5 characters): **80384**
6. Tax Year (2 digits): **10**
7. Tax Month (2 digits): **01**

Your financial institution may call the EFTPS Financial Institution Helpline for questions or assistance at **1-800-605-9876** (Monday – Friday, 8:00 a.m. – 8:00 p.m., Eastern Standard Time).

NOTE: If you are not enrolled in *EFTPS – Direct* or *EFTPS – Through a Financial Institution*, or otherwise wish to use the Same Day Payment option, then please provide your financial institution with the information listed above and direct them to accurately deposit your payments utilizing the following routing and account numbers:

Routing Number (RTN): **091036164 FRB MPLS ETA**
Account Number: **20092900**

If the financial institution has difficulty transmitting the EFTPS same-day payment, please call **1-800-382-0045** (Monday – Friday, 7:45 a.m. – 4:30 p.m. Central Standard Time) to receive assistance from a Customer Service Representative at the Minneapolis Federal Reserve Bank.

ATTACHMENT 1

CONSENT TO DISCLOSE TAX INFORMATION

I hereby consent, pursuant to section 6103(c) of the Internal Revenue Code of 1986 (as amended), to the disclosure of return information (as defined in section 6103(b) (2)) relating to the Closing Agreement (Agreement) between the City of Atlanta, Georgia (Taxpayer) and the Commissioner of Internal Revenue, executed by the Taxpayer on _____, 2013, as follows:

The Internal Revenue Service may disclose the existence and subject matter of the Agreement under the following circumstances:

- a. In the event of a default by Taxpayer on any term in the Agreement; or
- b. To the extent that the Internal Revenue Service deems necessary to correct any material misstatement with respect to the Agreement in response to a public statement by Taxpayer, or an agent of Taxpayer.

Such disclosure may be made to Members of Congress, the press, and the general public, and may be made by any means, including press releases and notices in Internal Revenue Service publications.

This authorization is applicable only to the taxability under section 103 of the Internal Revenue Code of interest paid on the Taxpayer's \$80,000,000 General Fund Tax Anticipation Note, Series 2010. I am aware that in the absence of this authorization, the returns and return information of the City of Atlanta, Georgia are confidential and may not be disclosed except as authorized by the Internal Revenue Code.

I certify that I have the authority to execute this consent on behalf of Taxpayer.

Taxpayer Name: City of Atlanta, Georgia

Taxpayer TIN: 58-6000511

Taxpayer Address: 68 Mitchell Street, S.W., Atlanta, Georgia 30334

By: _____

Title: _____

Signature: _____

Date: _____

AN ORDINANCE

C.T. Martin

13-0-0165

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO AMEND THE FY 2013 (GENERAL FUND) BUDGET BY TRANSFERRING TO AND FROM APPROPRIATIONS IN THE AMOUNT OF ONE HUNDRED EIGHTY TWO THOUSAND FOUR HUNDRED TWENTY ONE DOLLARS AND NO CENTS (\$182,421.00), AND AUTHORIZING THE EXECUTION OF A CLOSING AGREEMENT WITH THE INTERNAL REVENUE SERVICE REGARDING THE ISSUANCE OF THE CITY OF ATLANTA \$80,000,000 GENERAL FUND TAX ANTICIPATION NOTE, SERIES 2010; AND TO AUTHORIZE PAYMENT OF PENALTIES IN THE AMOUNT OF ONE HUNDRED EIGHTY TWO THOUSAND FOUR HUNDRED TWENTY ONE DOLLARS AND NO CENTS (\$182,421.00); TO BE CHARGED TO AND PAID FROM FUND (1001- GENERAL FUND) DEPARTMENT (200301-NON-DEPARTMENTAL) ORGANIZATION (5730009- UNALLOCATED CITYWIDE) FUNCTION/ACTIVITY (1540000- PENALTIES); AND FOR OTHER PURPOSES.

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WHEREAS, the Internal Revenue Service (the "IRS") has conducted an examination of the Note and a determination has been made by the IRS that, based on a lack of records, the Note failed to meet the requirements of Section 103 of the Internal Revenue Code; and

WHEREAS, it has been determined that it is in the best interest of the City to enter into a "Closing Agreement on Final Determination Covering Specific Matters," in substantially the form attached hereto as Exhibit A (the "Agreement"); and

WHEREAS, it is in the best interest of the City to transfer projected savings in the City's Unemployment Compensation budget to provide funding for the penalties associated with the settlement.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

SECTION 1: That the FY2013 (General Fund) Budget be and is hereby amended as follows:

Transfer from Appropriations- \$182,421

Fund (1001- General Fund) Department (200306- Non-Departmental Unemployment Compensation) Organization (5126001- Unemployment Compensation) Function/Activity (1540000- Unemployment Compensation Payments)

Transfer to Appropriations- \$182,421

Fund (1001- General Fund) Department (200301-Non-Departmental) Organization (5730009- Unallocated Citywide) Function/Activity (1540000- Penalties)

Section 2: The Chief Financial Officer of the City is authorized to execute the Agreement, attached hereto in substantially final form.

Section 3: The Chief Financial Officer is hereby authorized to pay the required penalties assessed by the IRS in the amount of One Hundred Eighty Two Thousand Four Hundred Twenty One Dollars And No Cents (\$182,421.00), to be charged to and paid from Fund (1001- General Fund) Department (200301-Non-Departmental) Organization (5730009- Unallocated Citywide) Function/Activity (1540000-Penalties).

Section 4: The Agreement will not become binding upon the City and the City will incur no obligation or liability under it until it has been executed by the Chief Financial Officer, approved by the City Attorney as to form and delivered to the IRS.